AJN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.672 OF 2007

Mrs. Anjelina wife of Jeetendrakumar @ Manaklal Ganeshmal Baphana ... Petitioner

Vs.

The State of Maharashtra & Anr. ... Respondents

Mr. A.M. Saraogi for the petitioner.

Mr. S.D. Shinde, A.P.P. for the State.

Ms. Teja Tatdare for the BMC.

CORAM : SMT. RANJANA DESAI & D. B. BHOSALE, JJ.

DATED : 17TH APRIL, 2007.

P.C.:-

1. The petitioner has prayed that the investigation in respect of C.R. No.49 of 2007 dated 6/2/2007 which is pending in the Malad Police Station be transferred to some other agency.

2. We have heard, Mr. Saraogi, the learned counsel appearing for the petitioner. The learned counsel made a serious grievance about the way in which the investigation in this case is proceeding. He drew our attention to the order dated 5/2/2007 passed by the learned Sessions Judge on the application for anticipatory bail filed by the accused. By this order, the learned

Sessions Judge has issued notice to the police and has observed that during notice period, liberty of both the applicants is protected in connection with any offence registered on the basis of complaint lodged by Anjalina J. Baphana. Admittedly at that stage, offence was not registered.

3. The learned Sessions Judge ought to have first ascertained whether, in fact, any offence is registered or not. An order not to arrest could only have been passed if an offence was registered. Such orders on many occasions have wide repercussions. The Investigating Officer and the Public Prosecutor should have correctly apprised the facts to the learned Judge. In the circumstances of the case, at present, we can only direct the Senior Police Inspector of Malad Police Station to personally look into the investigation. The Investigating Officer shall at every stage of the investigation report to the Senior Police Inspector of Malad Police Station. We hope and trust that our order is followed in letter and spirit so that no occasion arises for us to pass any comments on the investigation conducted by the Malad Police Station. The petition is disposed of.

[SMT. RANJANA DESAI, J.]

[D. B. BHOSALE, J.]